UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
OSMAN, RAMY M

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

		Application No.	Applicant(s)	
Office Action Summary		10/608,192	PATIEJUNAS, KESTUTIS	
		Examiner	Art Unit	
		Ramy M. Osman	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>05 September 2007</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-48</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-48</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   This action is responsive to amendment filed on September 5, 2007, where Applicant

amended claims 1,13,25,33,37. Claims 1-48 remain pending.

Response to Arguments

2.   Applicant's arguments, filed 9/5/2007, with respect to the rejection(s) of claim(s) 1-48

under 102(e) have been fully considered but are not persuasive.

3.   Applicant argues that Bolik does not teach "buffering the message object prior to

transmission to the remote destintaion" because in Bolik this occurs after the backup object has

been transferred to the backup server.

In reply, Applicants claim language is broad and is thus broadly interpreted. Bolik does

indeed teach managing data transmission from at least one data source (i.e. a backup server) to a

remote destination (i.e. backup storage drive) (column 3 lines 20-30) where backup operations

are performed by the backup server (column 3 lines 26-28). Buffering occurs on the backup

server in the form of generating object entries into a transaction log (column 6 lines 17-25). After

the buffering, the server "then writes" the object to the backup storage (column 6 lines 26-27).

Thus it is seen that the buffering occurs prior to transmission to the backup storage.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of 35 U.S.C. 102(e) which forms the basis for all

obviousness rejections set forth in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
subsection of an application filed in the United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English language.

.5.   **Claims 1-48 rejected under 35 U.S.C. 102(e) as being anticipated by Bolik (US**

Patent No 6857053).

6.   In reference to claim 1, Bolik teaches a system for managing the transmission of data

from at least one data source to a remote destination, the system comprising:

an input interface to receive a plurality of message objects generated from data from at

least one data source (column 6 lines 3-7);

a transport interface to a transport layer (column 3 lines 20-30); and

a communication engine, communicating with the input interface and the transport

interface, the communication engine buffering the message objects prior to transmission to the

remote destination via the transport layer (column 6 lines 18-34, where on line 26 the phrase

"then writes" denotes that the buffering occurs prior to the server writing the objects to the

backup storage).

7.   In reference to claim 2, Bolik teaches a system according to claim 1, wherein the at least

one data source comprises a network (column 3 lines 12-20).

8.   In reference to claim 3, Bolik teaches a system according to claim 2, wherein the network

comprises at least one server (column 3 lines 12-20).

9.   In reference to claim 4, Bolik teaches a system according to claim 3, wherein the network

comprises a local area network (column 3 lines 15-20).

10.   In reference to claim 5, Bolik teaches a system according to claim 1, wherein the

transport layer comprises a Transport Control Protocol layer (column 3 lines 10-35).

11.   In reference to claim 6, Bolik teaches a system according to claim 1, wherein the remote

destination comprises a storage host (column 3 lines 21-26).

12.   In reference to claim 7, Bolik teaches a system according to claim 1, wherein the

communication engine queues the message objects in at least one output buffer (column 6 lines

18-34).

13.   In reference to claim 8, Bolik teaches a system according to claim 1, wherein the at least

one data source comprises a plurality of data sources (column 3 lines 12-20 and column 6 lines

3-7).

14.   In reference to claim 9, Bolik teaches a system according to claim 8, wherein each of the

data sources is associated with at least one corresponding session (column 6 lines 3-34).

15.   In reference to claim 10, Bolik teaches a system according to claim 9, wherein the

communication engine binds at least one session to at least one of a plurality of connections to

the remote destination (column 6 lines 3-34).

16.   In reference to claim 11, Bolik teaches a system according to claim 10, wherein the

communication engine binds more than one session to at least one of the connections to the

remote destination (column 6 lines 3-34).

17.   In reference to claim 12, Bolik teaches a system according to claim 1, wherein the

buffering of the message objects is performed at least in part according to a state of a message

completion port (column 6 lines 3-37).

18.   In reference to claims 13-24, claims 13-24 are method claims that correspond to the

system claims of 1-12. Therefore, claims 13-24 are rejected based upon the same rationale as the

rejections of claims 1-12.

19.   In reference to claims 25-36, claims 25-36 are database claims that correspond to the

system claims of 1-12. Therefore, claims 25-36 are rejected based upon the same rationale as the

rejections of claims 1-12.

20.   In reference to claims 13-24, claims 37-48 are message object claims that correspond to

the system claims of 1-12. Therefore, claims 37-48 are rejected based upon the same rationale as

the rejections of claims 1-12.

Conclusion

21.   The claims have been given their broadest reasonable interpretation. Applicant is advised

that the above specified citations of the relied upon prior art are only representative of the

teachings of the prior art, and that any other supportive sections within the entirety of the

reference (including any figures, incorporation by references, claims and priority documents) is

implied as being applied to teach the scope of the claims.

22.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008.

The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO
November 9, 2007

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